



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

F. #2020R00926
F. #2020R00927

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 13, 2020

TO BE FILED UNDER SEAL

BY EMAIL

The Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. The Goldman Sachs Group, Inc., 20-CR-437 (MKB)
United States v. Goldman Sachs (Malaysia) Sdn. Bhd., 20-CR-438 (MKB)

Dear Judge Brodie:

The parties in the above-captioned cases are scheduled to appear before the Court at 10:30 a.m. on October 22, 2020, at which point the defendant The Goldman Sachs Group, Inc. ("Goldman Sachs") is expected to enter into a deferred prosecution agreement ("DPA"), and the defendant Goldman Sachs (Malaysia) Sdn. Bhd. ("Goldman Malaysia") is expected to plead guilty, both in connection with their roles in a criminal conspiracy to bribe foreign officials to obtain and retain business for the defendants and related entities. Specifically, Goldman Sachs will enter into a DPA in connection with a one-count criminal information charging conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"), and Goldman Malaysia will plead guilty to a one-count information charging the same criminal conduct. The government will provide the Court with draft copies of all relevant documents for review this week.

The government is not seeking courtroom closure for the court appearances on October 22, 2020, nor is it seeking to have the defendants designated as "John Does." However, the government is seeking to have the dockets for each of the cases sealed until the pleas take place, and also seeking for the Court not to publicly announce the identities of the defendants on the public court calendar prior to October 22, 2020. There are several reasons for this request. First, because the defendants have not yet been charged by indictment or information, there are not currently cases pending against the defendants. While the government anticipates that the defendants will enter into agreements and either plead guilty or enter into a DPA, the documents have not been finalized and the defendants do have the option to choose not to enter into these agreements. As a result, the government does not want to publicly disclose the existence of a

potential case against any of these defendants until their agreements to waive indictment and proceed are finalized. Second, the criminal resolutions that will be reached with Goldman Sachs and Goldman Malaysia are being coordinated with similar resolutions with multiple partners in several countries, including Singapore and the United Kingdom, and those resolutions are not yet public and will not be public until October 22, 2020. Third, premature disclosure of the fact of criminal resolutions with Goldman Sachs and Goldman Sachs Malaysia, without the corresponding context of the details of those resolutions (which are set forth in the relevant agreements and informations), could have significant adverse collateral consequences for Goldman Sachs, a publicly-traded company.

The government notes that courts in this district have taken a similar approach in recent cases, including United States v. Keppel Offshore & Marine Ltd., 17-CR-697 (KAM) (“Keppel”) and Keppel Offshore & Marine USA, Inc., 17-CR-698 (KAM) (“Keppel USA”), and United States v. TechnipFMC plc, 19-CR-278 (KAM) and United States v. Technip USA, Inc., 19-CR-279 (KAM), in which the dockets remained sealed and the defendants’ names were not publicly announced until the date of their pleas.

For these reasons, the government requests that this application be filed under seal, that the dockets for the above-captioned cases remain under seal and the names of the defendants in those cases not be publicly disclosed (including on a court calendar) until the date of the scheduled pleas on October 22, 2020. Please let us know if the Court has any further questions.

Respectfully submitted,

SETH D. DUCHARME
Acting United States Attorney

By: /s/ Alixandra E. Smith
Jacquelyn M. Kasulis
Alixandra E. Smith
Drew G. Rolle
Assistant U.S. Attorneys
(718) 254-7000

cc: Defense Counsel (by email)